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# **Regulation and Consumer Protection of Fintech in Indonesia: The Case of Islamic Fintech Lending**

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**Abstract---**Islamic fintech lending regulation and consumer protection are important matters that serve as behavioral guidelines and guarantee the fulfillment of consumer rights. Islamic fintech lending has high risks, such as default, sharia compliance, and implementation of dispute resolution. This study aims to find and analyze the regulation and protection of Islamic fintech lending consumers in Indonesian laws and regulations. This research is normative juridical research that examines the law as a norm in legislation by using secondary data which is analyzed qualitatively by descriptive analysis method. Normatively, there are no regulations that specifically regulate or contain Islamic fintech lending. Thus, consumer protection is also weak. Policymakers must carry out legal reforms by issuing laws or regulations that regulate Islamic fintech

lending and its business activities to realize legal certainty, justice, and benefit.

**Keywords**---consumer protection, fintech, Islamic fintech lending, policymakers, regulation.

## Introduction

Based on Islamic Finance News Fintech records, as of 5 November 2021, globally there are two hundred and seventy-two Islamic fintech companies, including thirty-eight payment and remittance companies, forty-nine alternative finance companies, thirty-seven trading companies, and investment aggregators, twenty-seven blockchain and cryptocurrency companies, forty crowdfunding companies and twenty-eight peer to peer lending/fintech lending companies (IFN Fintech). Meanwhile, based on the ranking of the Global Islamic Fintech (GIFT) Index, in particular, Indonesia occupies the fourth position as the most conducive country for the growth of the Islamic Fintech Market & Ecosystem behind Malaysia, Saudi Arabia, and the UAE (United Arab Emirates) with a market size estimated to reach US\$ 8.3 billion by 2025. The growth of the fintech market and ecosystem in Indonesia is, among others, supported by Islamic fintech lending which is growing and developing well ([Lee & Shin, 2018](#); [Jagtiani & John, 2018](#)).

The growth of Islamic fintech lending in Indonesia can be seen in the Financial Services Authority records published on October 6, 2021. The financial services authority noted that there are seven licensed and two registered Islamic fintech lending platforms, bringing a total of nine platforms in Indonesia ([Financial Services Authority, 2021](#)). This data increased by 350% compared to 2018 which only amounted to two platforms. In assets, the total assets of Islamic fintech lending in August 2021 reached IDR 115.72 billion with total liabilities of IDR 54.58 billion and total equity of IDR 61.13 billion (Financial Services Authority). The growth of Islamic fintech lending is supported, among others, by the increase in the living standards of the Indonesian Muslim population, which reached 86.6% of the total population of 272.23 million people ([Kusnandar, 2021](#)). Such a large Muslim population and coupled with increased awareness of the importance of ethics and Islamic values encourage a Muslim to comply with the provisions of Islamic law in carrying out economic activities ([Pişkin & Kuş, 2019](#); [Zhao et al., 2021](#)).

In the growth and increase of Islamic fintech lending assets and their positive impact on improving the national economy, the fintech lending industry, still has important problems to resolve, including immature regulations, overlapping regulations, and need revision. Related to the development of fintech in Indonesia ([Iman, 2016](#)). Regulations governing fintech lending are very necessary and important because in a worse scenario, fintech has the potential to disrupt financial stability because users fail to reduce the risks involved in their business and have the potential to have a severe negative impact on the economy ([Batunanggar, 2019](#)). In addition, the Islamic fintech lending mechanism which involves three parties (platform, lender and borrower) and the use of information technology is also have the potential to harm the parties involved in the

transaction. There are several risks faced by the parties in Islamic fintech lending transactions, such as the risk of default due to bad behavior of the borrower [Suryono et al. \(2019\)](#), misuse of funds, the potential for shadow banking, sharia compliance [Rama \(2018\)](#), and risk consumer protection and dispute resolution [\(Yuniarti & Rasyid, 2020; Disemadi et al., 2020\)](#). Sharia compliance and consumer protection are risks that must be considered because Islamic fintech lending is part of sharia economic activities that are bound by sharia principles [\(Gaganis et al., 2020; Jin & Wagman, 2021\)](#).

Sharia principles are derived from the principles of Islamic law which prohibit elements of gambling, fraud, usury, persecution, bribery, illicit goods, and immorality in economic activities [\(Nafis, 2011\)](#). The guarantee of sharia compliance in Islamic fintech lending is very important because the word "sharia" implies that economic activities do not conflict or are in harmony with the values contained in the Qur'an and Hadith. In Islamic law, every economic activity must uphold justice, benefit, pay attention to the value of togetherness, brotherhood and pay attention to ethical behavior. These values are sourced from religious teachings which are absolute and demand to be implemented consistently and are Muslim rights in Islamic fintech lending [\(Djankov et al., 2006; Wiener, 2004\)](#).

The demand to implement sharia principles of economic activity including in Islamic fintech lending in addition to religious obligations is also a market demand, research conducted by Elipses with the theme of Islamic Fintech conducted in December 2019 recommended that fintech companies are successful in carrying out their business activities must adjust with a broad financial market such as green finance, finance that upholds ethics and conducts business by sharia principles. The implementation of sharia principles in Islamic fintech lending is a form of sharia compliance which is the difference between non-Islamic fintech lending and Islamic fintech lending that must be met so that consumers get the protection of their spiritual rights. The spiritual rights of consumers in Islamic financial institutions are rights protected by a law originating from religious values and implemented in the form of applying sharia principles in economic activities [\(Setyowati, 2018\)](#).

The freedom to apply sharia principles in economic activities and the protection of consumer rights is part of the human rights contained in Article 28 D of the 1945 Constitution which states that everyone has the right to receive fair recognition, guarantees, protection, and legal certainty as well as equal treatment in before the law. The guarantee of the protection of consumers' spiritual rights as human rights is also reflected in Article 28 G paragraph 1 of the 1945 Constitution which states that everyone has the right to protection of personal, family, honor, dignity, and property under his control, as well as a feeling of being protected, security and protection from the threat of fear of doing or not doing something. Based on the two articles, it is clear that the protection of the rights of spiritual consumers is a human right that must be upheld and realized to achieve the state's goal of a just and prosperous society as stated in the Preamble to the 1945 Constitution [\(Stevenson et al., 2008; Sarlin, 2013\)](#).

From the perspective of Islamic economics, institutions or companies that apply sharia principles must pay attention to two things; Sharia compliance guarantee

and consumer protection (Mujahidin, 2019). Based on this opinion, regulations are needed that include sharia compliance and consumer protection in Islamic fintech lending activities. This study seeks to find the regulation of Islamic fintech lending in the laws and regulations to find out the guarantee that Islamic fintech lending is under the principles of Islamic law and guarantees the protection of its consumers (Suwija et al., 2019; Vressick-Chilborn & Rachman, 2020).

## **Method**

This research is part of normative juridical research that conceptualizes law as a norm contained in legislation. The data source is obtained from secondary data through library research. Secondary data consists of primary, secondary, and tertiary legal materials. Primary legal material in the form of rules or norms contained in the legislation. While secondary legal materials are in the form of scientific works, including books, journals, and other scientific works related to the regulation and protection of Islamic fintech lending consumers in Indonesia and other related literature. In addition to the two legal materials, this study also uses tertiary legal materials that provide explanations for primary legal materials and secondary legal materials (Davydova et al., 2021; Korolova et al., 2021).

## **Discussion**

### **Financial technology and Islamic fintech lending**

Islamic fintech lending is a form of financial technology (Fintech) whose development is supported by the development of disruptive information technology. Information technology has replaced personal face-to-face relationships with relationships facilitated by real-time technology. In the economic field, e-commerce and fintech came into being. Fintech can be described as the use of technology to provide consumers with financial services and products, which can be everything related to insurance, banking, investment, and finance (Madi, 2019). Fintech can also be defined as the production and service that combines financial services and technology, in other words, computing or other technologies used to provide and activate financial services (Rafay, 2019).

Nafis Alam et al, explained that fintech is a term commonly used by financial service institutions that provide services or products made using technological means that produce many highly innovative, disruptive, and pioneering services (Alam et al., 2019). Based on these definitions, it can be concluded that fintech is a financial service that uses information technology facilities both at bank financial institutions and non-bank financial institutions. While the definition of Islamic fintech lending, Hendratmi et.al., states that fintech lending as part of Islamic crowd funding is described as the use of small amounts of money, obtained from a large number of individuals or organizations, to fund projects, business or personal loans, and other needs through online web-based platforms under Sharia principles (Hendratmi et al., 2019).

In financial technology lending, some parties are related or related to fintech activities. Castro et al. argue that the fintech ecosystem is composed of five elements: fintech startups, governments, consumers, technology developers, and

traditional financial institutions (Castro et al., 2020). The same view is expressed by Lee and Shin who identify five elements in the fintech ecosystem Lee & Shin (2018), which consist of; fintech startups (for example, payments, wealth management, lending, crowd funding, equity crowd funding, and insurtech), technology developers (for example, big data analytics, cloud computing, crypto currencies, and “social media” developers), government (financial authorities and legislative bodies), financial consumers, both individuals and institutions, and traditional financial institutions (both bank and non-bank financial institutions such as capital markets, insurance). These parties are involved in fintech lending activities and influence each other. Each has a different but interrelated role in an ecosystem known as the fintech ecosystem (Pratiwi, 2016; Mokoagouw, 2018).

### **Islamic fintech lending and consumer protection: a philosophical perspective**

Islamic fintech lending is part of Islamic economic activities. In carrying out Islamic economic activities, it must be supported by several principles. Islamic economic principles include controlling individual assets to be used for investment, inclusive income distribution, optimal investment (buying and selling) and risk sharing (no usury), financial transactions in the real sector prohibiting unproductive speculation (no maysir), social participation for the public, mu'amalah transactions based on cooperation, fairness, transparency, does not endanger safety, is not unjust, and does not contain unlawful substances.

Asutay states that in Islam, every economic activity must be based on the philosophical foundation and the axiom foundation of Islamic economics Asutay (2007); First, the oneness and sovereignty of God (tawhid); in particular this principle shows the vertical dimension of Islam. The principle of monotheism, as an important part of this economic system, provides freedom of action in which each individual is seen as an integral part of the whole. Second, humans are the caliphs of Allah SWT on earth who are allowed to prosper the earth. Everything on this earth can be used to support his position as the caliph who must submit to the laws that have been set by Allah SWT. Third, equilibrium and Beneficence or Socio-economic Justice ('adl and ihsan); in economic activities, each individual is expected to uphold justice ('adl) and invite or promote goodness (ihsan) so that it is expected to realize social balance, economic equality, balance present, and future needs, and develop policies for a fair distribution of wealth and provide policies that are oriented towards growth and stability. Fourth, free will (ikhtiyar); in the systemic understanding of Islamic economics, humans are believed to be endowed with free will even though it is "unlimited and voluntary". Individual economic actors can carry out economic activities that are not prohibited by sharia by adjusting to the needs that are in line with the times of functional norms of economic activity in the Islamic Economic system. Fifth, responsibility (fard); this axiom states that although 'responsibility' is voluntary, individuals and society must recognize their shared obligations in the public interest.

Islamic law also stipulates that to ensure social and economic justice for the community, every transaction must not violate the law, be *halal* (legitimate income), mutual agreement in every transaction, transparent and fair treatment of others, and based on honesty. Islamic law does not tolerate cheating,

deception, exploitation of others, and taking the property of others. In Islam, protection of property is part of *maqashid sharia* that must be protected. This Sharia principle also applies to Islamic fintech lending transactions. Thus, it is hoped that consumer rights will be protected.

The principles of consumer protection can be found explicitly in the sources of Islamic law, namely the Qur'an and Hadith as well as the rules of *fiqh* (Ayob, 2017). In Q.S an-Nisa verse 29 and QS al Muthaffifin verses 1-3. Other forms of consumer protection contained in the Hadith include providing opportunities for consumers to return the goods even though the goods are in good condition within a period of three days called *khiyar*, as in the Hadith narrated by Abu Dawood; "whoever accepts back what he had sold to a Muslim, Allah will forgive his faults".

The principles of consumer protection are also contained in legal maxims are obtained from understanding the Qur'an and other sources. Legal maxims have an important role in the formation of Islamic law. Legal maxims related to consumer protection such as "All actions are determined according to intentions". Concerning consumer protection, a trader who has bad intentions or malpractice that can cause damage and loss to consumers can be sentenced to criminal penalties following the malpractice and crime. The principle of consumer protection also appears in the *fiqh* rule "Certainty is not dispelled by doubt". Doubt cannot be eliminated if it is accompanied by strong evidence. Based on this rule, business actors who are proven to have committed actions that harm consumers must be punished according to their mistakes, and consumer rights are enforced and maintained. Nurkhalish mentions six consumer rights must be considered by business actors in an Islamic perspective, namely, the right to obtain correct and honest information, fair and avoid counterfeiting, product and service security, a healthy environment, defense and dispute resolution, protection from abuse of circumstances, rights compensation for products consumed and the right to choose and obtain a fair exchange rate (Nurhalish, 2015).

In Indonesia, the application of Islamic legal principles or Sharia principles in Islamic fintech lending is a manifestation of the practice of religious teachings guaranteed by Article 29 of the 1945 Constitution. Even though it is juridically normative in the state constitution, it is not stated that Indonesia is a country based on Islamic law but Indonesia is a Muslim country, namely, a country where the majority of the population is Muslim (Sjahdeini, 2007). So that, the desire of citizens to apply the principles of Islamic law in economic activities must be facilitated by the state. Moreover, Islamic law is a source of national law in the formation of legislation. Textually, Islam is not included in the state constitution, but Islam has a great influence on the social life of the Indonesian nation. Islam has become one of the sources of the formation of values, norms, and behavior of society. The proof is that Islam has become a symbol of resistance to Dutch colonialism and has become a hallmark of national identity.

Concerning the implementation of Islamic law in Indonesia, Hazairin was quoted by Ali, believes that state administrators are obliged to facilitate religious adherents to implement the religious law they adhere to as a form of



implementation of the 1945 Constitution, particularly Article 29 paragraph 2 (Muhammad, 2007). The State of Indonesia is a religious state or a legal state that believes in God Almighty. Therefore, the State guarantees freedom of religion which has a positive connotation. In the state of Pancasila law, there is no separation between state and religion (Hidayat, 2017). Abdullah also argues that the implementation of Islamic law in Indonesia has received a constitutional place based on three reasons, namely: First, for philosophical reasons, Islamic teachings are a way of life, moral ideals and legal ideals for the majority of Indonesian Muslim communities, and have an important role in creating the basic norms of the Pancasila state; Second, sociological reasons. The historical development of Indonesian Islamic society shows that legal ideals and legal awareness based on Islamic teachings have a continuous level of actuality; and Third, the juridical reasons contained in Articles 24, 25, and 29 of the 1945 Constitution provide a place for the formal juridical application of Islamic law (Abdullah, 1994). These opinions confirm that the application of Sharia principles in economic activities is an action inspired by the philosophical values contained in Pancasila and the 1945 Constitution.

### **Islamic fintech lending and consumer protection in laws and regulations**

The statement of consumer protection implies that consumers get protection from parties who can provide maximum protection in this case the power holder. Consumers are legal subjects (persons/entities) who obtain or use goods/services provided by business actors and are not traded (Kristiyanti, 2008). In Islam, a consumer is any person or entity that uses goods or services by following the provisions applicable in Islamic law (Djakfar, 2007). The notion of consumers is not limited to individuals but also includes legal entities such as foundations and companies (Zamzam & Aravik, 2020). Thus, consumers are all persons or legal entities that consume a product produced by producers/business actors. Based on the consumer's understanding, in sharia fintech lending, consumers are people or legal entities that use sharia fintech lending services or financing based on information technology services whose operations are subject to Sharia principles or Islamic legal principles.

Consumer protection in economic activities must be prioritized and realized. There are four reasons for the need for such legal protection; a) consumer protection is the same as protecting citizens as mandated by the preamble of the 1945 Constitution, b) consumer protection is needed to prevent consumers from the negative impacts of using technology, c) protecting consumers is needed as an effort to protect consumers as actors of physical and spiritual development to maintain the continuity development, d) consumer protection needs to be carried out to ensure the sustainability of sources of development funds originating from consumers (Sidabalok & Di Indonesia, 2010). In the civil law system, protection will be effective if it is stated in norms that bind the community and enforced by the authorities accompanied by threats and punishments for those who violate them.

Currently, the regulation of fintech lending is contained in the Financial Services Authority Regulation (POJK) Number 77/2016 concerning Information Technology-Based Lending and Borrowing Services. In this regulation, it is stated

that information technology-based lending and borrowing services are the provision of financial services to bring together lenders and borrowers to enter into lending and borrowing agreements in rupiah currency directly through an electronic system using the internet network. This definition explicitly refers to the existence of a fintech lending platform as a service provider of lending and borrowing money through internet media or electronic systems, both conventional fintech lending platforms and Islamic fintech lending platforms. In the Regulation of the Financial Services Authority number 77/2016 there is no single article that stipulates the existence of Islamic fintech lending or matters related to it.

In addition to POJK number 77/2016, normatively there are several laws and regulations related to fintech lending, including; Law Number 11 of 2008 which was last amended by Law Number 19 of 2016 concerning Information and Electronic Transactions, Regulation of the Financial Services Authority of the Republic of Indonesia Number 31/2020 concerning Implementation of Consumers and Community Services in the Financial Services Sector by the Financial Services Authority, Regulation Financial Services Authority of the Republic of Indonesia Number 18 of 2018 concerning Consumer Complaint Services in the Financial Services Sector, Circular Letter of the Financial Services Authority Number 14 of 2014 concerning Confidentiality and Security of Consumer Data and/or Personal Information, Circular Letter of the Financial Services Authority of the Republic of Indonesia Number 13 of 2014 concerning Standard Agreements, and Circular Letter of the Financial Services Authority of the Republic of Indonesia Number 2 of 2014 concerning Services and Settlement of Consumer Complaints to Financial Services Business.

However, the legislation has not been able to protect sharia fintech lending consumers because it does not regulate and does not place the Islamic fintech lending platform as business actors who can be held accountable because their position is only as a service provider who has not bound agreement with the borrower (Article 18 POJK number 77/2016). In addition to the absence of inadequate legal regulations for the existence of Islamic fintech lending platforms, the absence of protection for Islamic fintech lending consumers is also due to weak law enforcement. The Financial Services Authority feels that it does not have the authority to take action on illegal Islamic fintech lending platforms because FSAR number 77/2016 only regulates and is binding on fintech lending platforms that are licensed or registered issued by the Financial Services Authority.

In general, the causes of Islamic fintech lending consumers have not received fair and adequate legal protection. POJK number 77/2016 categorizes Islamic fintech lending platforms as other financial service institutions and not business actors and only regulates registered and licensed Islamic fintech lending operations. Financial Services Authority does not regulate illegal Islamic fintech lending platforms and also does not regulate the amount of interest charged to borrowers. The determination of the amount of interest is carried out by the Asosiasi Fintech Pendanaan Bersama Indonesia (Indonesian Joint Funding Fintech Association) and only binds registered or licensed Islamic fintech lending. The POJK number 77/2016 also does not determine the existence of a credit guarantee or insurance institution that provides security guarantees for money lent by lenders. Based on these facts, Islamic fintech lending consumers have not received maximum



protection. Therefore, there is a need for improvement, harmonization and regulation, improvement of supporting facilities and infrastructure, professionalism of the apparatus, the legal culture of the community, and political will of policyholders to consistently and simultaneously pay attention to the protection of Islamic fintech lending consumers.

Besides these problems, the POJK number 77/2016 also does not regulate the agreement between the Islamic fintech lending platform and the loan recipient. Based on this, the legal relationship that exists between the parties only occurs between the Islamic fintech lending platform and the lender and between the lender and borrower. The relationship between the borrower and the Islamic fintech lending platform is not a lending and borrowing relationship as regulated in Article 1754 of the Civil Code. The relationship between the two is only limited to the use of the Islamic fintech lending platform and not the relationship between consumers and business actors. Based on this position, the Islamic fintech lending platform is not responsible for the possibility of violations of consumer rights by the principle of privity of contract that business actors can only be held legally responsible as long as there is a contractual relationship between themselves and consumers. Such an arrangement has the potential to harm consumer rights because it places the sharia fintech lending platform in the position of not being a business actor, even though it is clear that in Article 2 and Article 3 of POJK number 77/2016 the operator is categorized as a legal entity in the form of a limited liability company or cooperative. Limited liability companies and cooperatives are business entities that carry out business under the provisions that govern them. In addition, Article 2 paragraph (1) of POJK number 77/2016 also states that the operator is included in the category of other financial institutions which are equated with pawnshops and pension institutions.

In addition to the unclear status of the Islamic fintech lending platform, the POJK number 77/2016 also does not regulate the procedures for a financial settlement that must be carried out by the Islamic fintech lending platform whose registration has been canceled by the Financial Services Authority. The Financial Services Authority only requires the Islamic fintech lending platform whose registration was canceled to complete its obligations to users (consumers) based on a statement made by the Islamic fintech lending platform. The Financial Services Authority does not regulate sanctions against Islamic fintech lending platforms whose registration is canceled but does not fulfill its obligations to service users (consumers). The Financial Services Authority ignores the rights of service users as consumers. Thus, the rights of service users or consumers in fintech lending are not protected by laws and regulations. Meanwhile, users are consumers in economic activities whose rights must be prioritized and protected because they have a strategic position in economic activities.

Several things show that POJK No. 77/POJK.01/2016 does not regulate Islamic fintech lending;

- The legal relationship between the platform fintech lending and the lender and the borrower is based on an electronic agreement that regulates the determination of the loan interest rate. The term interest cannot be used in

Islamic fintech lending because in Islamic fintech lending it is not allowed to use contracts or actions that are prohibited in Islam, while the term interest tends to be interpreted as something that connotes usury while usury is prohibited in Islamic law.

- POJK uses the term “money borrowing service” which is equivalent in Islamic law is Qardh. While Qardh in the perspective of Islamic law is a pure loan contract that is not allowed to take advantage of the existence of the contract. If the Qardh contract or loan is used in Islamic fintech lending services then the lender is not allowed to take advantage of any form and this is not possible in a business context.
- In the POJK there is also no policy or regulation regarding the existence of a Sharia Supervisory Board (DPS) that oversees fintech lending business activities. Whereas DPS is an organ that must exist in a limited liability company or business entity that runs a business based on sharia principles.

Based on these matters, Islamic fintech lending requires special regulation even though there has been a DSN MUI fatwa No. 117/DSN-MUI/II/2018 concerning Information Technology-Based Financing Services Based on Sharia Principles but no regulation requires Islamic fintech lending to comply with the fatwa. This is different from sharia banking institutions which expressly state that their business activities are based on sharia principles (Article 2 of Law No. 21 of 2008 concerning Sharia Banking). The sharia principle in question is the principle of Islamic law issued by an institution that has the authority to determine fatwas in the field of sharia (Article 1(12) Law. 21 of 2008). Islamic fintech lending regulation are specifically needed because Islamic fintech lending is different from conventional fintech lending. These differences include:

- In conventional fintech lending the borrower is charged with interest, the amount of which is determined by the fintech lending platform, while in Islamic fintech lending does not use the term loan but uses the term financing in which the lender's profit depends on the contract used. When using an Ijara (lease) contract, for example, the lender will receive an Ujra (rent) whose amount is determined by the fintech lending platform. When using a Mudharaba contract, the lender will get profit-sharing following the agreement of the parties.
- In conventional fintech lending the risk is fully borne by the loan recipient while in Islamic fintech lending the risk will be shared if using a Musharaka contract or Mudharaba contract.
- Conventional fintech lending provides money or certain loan funds according to the needs of the borrower with a maximum amount of IDR 2 billion while in Islamic fintech lending the organizer provides goods or services.

The existence of these differences, the regulations governing the two should also be different because each has a different philosophical basis. In the perspective of Islamic economics, economic activities are based on the principles of monotheism, work and productivity, brotherhood distribution of income and wealth, cooperation, and Islamic institutions. The basic philosophical differences between Islamic economics and conventional economic systems have implications for the

different characteristics of the two economic systems. The characteristics of Islamic economics include [Al Arif & Amalia \(2016\)](#):

- Individual and collective ownership is recognized in the context of benefit.
- Prioritizing the use of profit-sharing based contracts or profit and loss sharing such as Musharaka and Mudharaba and avoiding interest-based transactions.
- Distribution of wealth through zakat.
- Recognizing market mechanisms.
- Economic activities are regulated and supervised by the State or government.

In the characteristics of the sharia economy, it is stated that there is a role for the government as a supervisor and regulator, this shows the need for state or government intervention in implementing sharia economics. Government intervention, in this case, is carried out through the issuance of regulations governing Islamic fintech lending business activities because existing regulations do not yet regulate the existence of Islamic fintech lending. The regulation of Islamic fintech lending will realize consumer protection because, from the perspective of Islamic economics, institutions or companies that apply Sharia principles must pay attention to two things [Mujahidin \(2019\)](#):

- Guarantee of Sharia compliance; Contracts made must be following sharia principles, comply with the obligation to pay zakat, every transaction carried out is reported following applicable Sharia accounting standards, Islamic work environment and culture, financed businesses do not conflict with Sharia, all sourced from something that is legal and lawful based on sharia principles and there is a sharia supervisory board that supervises the operationalization of Sharia principles.
- protection for service users; In the perspective of Islamic law, economic activities are not only carried out to pursue profit or economic gain but also to seek *ukhrawi* profits in the form of expecting rewards because seeking *halal* sustenance is a religious command. For this reason, Sharia compliance is an important thing that must be fulfilled and makes it a differentiating element from conventional fintech lending.

Islamic fintech lending faces risks that are not faced by conventional financial institutions, namely Sharia compliance risk ([Rama, 2018](#)). Therefore, Sharia supervision as a form of guarantee of sharia compliance and protection of consumers to obtain sharia-compliant services is a must in the Islamic fintech lending to ensure compliance with these sharia principles, a sharia supervisor is needed who acts as a sharia Supervisory Board with the main task of ensuring that all products, services, and activities are carried out by Islamic fintech lending have complied with sharia principles. According to Hafiduddin and Tanjung, there are two kinds of supervision from an Islamic perspective [Hafiduddin & Tanjung \(2003\)](#): first, self-monitoring or control that comes from faith or belief and monotheism in Allah. A person who has strong faith and monotheism will feel that Allah is always watching him so that he will always act or act carefully because all his actions will be held accountable. Second, supervision originating from outside, this supervision can take the form of supervision from the

leadership or authorized institution accompanied by its completion and planning. Based on this opinion, supervision can be carried out personally or supervised through a leader. Supervision from a leader can be carried out directly through community participation and indirect supervision as outlined in the form of legislation. Indirect supervision contained in the form of legislation will be more effective than direct supervision through the role of the community because in the legislation or regulations written actions or behaviors are expected to be planned and have binding power and have legal certainty.

Increasing the effectiveness of sharia supervision in Islamic fintech lending must be done through the creation of regulations that ensure the realization of legal certainty and increase public confidence in the products and services provided by Islamic fintech lending. Regulations governing the existence and supervision of Islamic fintech lending are a necessity, considering that Indonesia is a state of law (Article 3 of the 1945 Constitution). The idea of a rule of law must be built by developing legal instruments as a functional and equitable system for the preparation of an orderly and orderly superstructure and institutional, political, social, and economic structure. Therefore, the legal system needs to be developed (law-making) and needs to be enforced ([Ash Shiddiqie, 2021](#)).

Sharia supervision in Islamic fintech lending has a strong foundation, both from sharia and legislation. In the Qur'an, among others, mentioned "And let there be among you a group of people who call to righteousness, enjoin the right and forbid what is evil; they are the lucky ones", also mentions "Who is better in speech than one who calls to Allah, does righteous deeds, and says: "Surely I am of those who surrender?". These two verses are the Sharia foundation of the importance of Sharia supervision in Islamic fintech lending through evaluation and reminding each other in terms of goodness. While the juridical basis that comes from the legislation is contained in Article 5 of the Law Number 21/2011 concerning the Financial Services Authority states that the Financial Services Authority is an institution that functions to organize an integrated regulatory and supervisory system in all activities in the financial sector. These two foundations are the philosophical basis and the juridical basis for the importance of Sharia supervision in Islamic fintech lending. While the sociological basis depends on the real need from the community and Islamic fintech lending business players for the importance of guaranteeing compliance with Sharia principles in running a business through Sharia supervision as a form of protection of consumer rights.

POJK Number 77/2016 does not regulate the existence of Islamic fintech lending, meaning that the rights of lenders and borrowers in Islamic fintech lending do not get strong legal guarantees. Legal protection for consumers of Islamic fintech lending in Indonesia is a form of recognition and protection of human dignity based on Pancasila and the implementation of the rule of law as stated in Article 3 of the 1945 Constitution. The idealism of the rule of law lies in its ability to achieve justice for all citizens based on the principle of supremacy law, equality before the law, and protection of citizens' rights. The spirit of state protection for citizens is contained in Article 34 paragraph 1 of the 1945 Constitution which states that the poor and neglected children are the responsibility of the state. This shows the state's obligation to protect citizens and create prosperity for all its citizens.

## Conclusion

Islamic fintech lending is part of financial technology which in its business activities is bound by sharia principles. Islamic fintech lending and consumer protection have a philosophical foundation based on Islamic law and a constitutional juridical basis based on the 1945 Constitution. However, currently, no regulation specifically regulates Islamic fintech lending. The POJK number 77/2016 or other laws and regulations do not regulate Islamic fintech lending at all. Adequate consumer protection must be realized by regulating Islamic fintech lending specifically in laws and regulations to create legal certainty, justice, and benefit.

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